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Trustee

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**LOS ANGELES DIVISION**

In re

GIRARDI KEESE,

Debtor.

Case No. 2:20-bk-21022-BR

Chapter 7

**NOTICE OF MOTION FOR ORDER  
APPROVING COMPROMISE WITH  
CALIFORNIA ATTORNEY LENDING II,  
INC. PURSUANT TO FEDERAL RULE  
OF BANKRUPTCY PROCEDURE 9019**

**[No hearing required pursuant to Local  
Bankruptcy Rule 9013-1(o)]**

**TO ALL INTERESTED PARTIES:**

**PLEASE TAKE NOTICE** that on May 11, 2021, Elissa D. Miller, the chapter 7 trustee (the "Trustee") for the bankruptcy estate of Girardi Keese (the "Debtor") filed her *Motion for Order Approving Compromise with California Attorney Lending II, Inc. Pursuant to Federal Rule of Bankruptcy Procedure 9019* (the "Motion"). The Motion is summarized as follows:

1. Since early in the Debtor's case, the Trustee been evaluating the claims of parties alleging to hold secured claims against the Debtor's bankruptcy estate (the "Estate"). California Attorney Lending II, Inc. ("CAL II") has asserted a first priority secured claim and provided documentation in support to the Trustee.

2. The Trustee has reviewed the documentation received from CAL II and has raised certain issues relating to the validity, priority, scope, and extent of CAL II's claim and related security interest. CAL II disputes the Trustee's claims. The Trustee and CAL II have engaged in discussions and entered into a settlement agreement (the "Settlement Agreement") to resolve their disputes.

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3. The key terms of the Settlement Agreement are as follows:

a. **The Allowed CAL II Claim.** CAL II shall have a single allowed claim of \$6,508,361.55 as of the Petition Date (the "Allowed CAL II Claim"). The Allowed CAL II Claim is comprised of: (a) the judgment balance of \$6,250,589.59; (b) interest of \$89,049.50 at the California judgment interest rate of 10%; and (c) legal fees of \$168,722.46, reduced from \$266,270.75. CAL II shall also have a first priority perfected security interest in substantially all of the Debtor's personal property assets (the "CAL II Collateral"), as reflected in CAL II's Loan documents, filed UCC Financing Statements, and continuations and amendments (the "CAL II Liens").

b. **Post-Petition Interest and Reasonable Fees, Costs or Charges.** CAL II reserves its right to later seek post-petition interest at the California judgment interest rate of 10%, along with reasonable fees, costs, or charges under 11 U.S.C. § 506(b). The Trustee reserves all related rights, including without any limitation, the right to contest CAL II's entitlement to post-petition interest, fees, costs, or charges and the reasonableness of any fees, costs, or charges that CAL II asserts. Any post-petition interest and/or reasonable fees, costs or charges shall be added to the Allowed CAL II Claim, whether the parties agree or whether ordered by the Bankruptcy Court. If a dispute about these issues and/or any issue relating to 11 U.S.C. § 506(b) arises, the dispute will be resolved by the Bankruptcy Court.

c. **Distributions from the Abikzer Payments.** As soon as practicable, the Trustee shall distribute the \$2,990,337.00 first Abikzer payment as follows: (a) \$2,093,235.90 (70%) will be distributed to CAL II and applied against the judgment balance principal; and (b) \$897,101.10 (30%) will be retained by the Trustee for the benefit of the Estate, but will be subject to the CAL II Liens and judgment lien, as well as liens against the CAL II Collateral asserted by any other creditor of the Debtor and/or the Estate. When the Trustee receives the second Abikzer payment, the second payment will be distributed as follows: (a) 70% to be distributed to CAL II to reduce the Judgment principal balance; and (b) 30% to be retained by the Trustee for the benefit of the Estate but subject to the CAL II liens and judgment lien, as well as liens against the CAL II Collateral asserted by any other creditor of the Debtor and/or the Estate.

d. **Preservation of Surcharge Rights.** The parties are not waiving any rights they may have under 11 U.S.C. § 506(c). In addition, upon written documentation provided by the Trustee to CAL II of the reasonable and necessary costs and expenses to preserve or dispose of the CAL II Collateral for CAL II's benefit, or for the benefit of any of the Debtor and/or Estate's creditors asserting a lien(s) against the CAL II Collateral, CAL II shall consent to and support the Trustee's and/or the Estate's surcharge of the CAL II Collateral under 11 U.S.C. § 506(c) as a subordination, but not a deduction of the Allowed CAL II Claim. CAL II shall not unreasonably withhold its consent and support.

e. **Continued Prosecution of CAL II's Claim in the Thomas Girardi Bankruptcy Case.** CAL II shall use its best efforts to prosecute its claim in the Thomas Girardi bankruptcy case. CAL II shall not withdraw or reduce its claim in the Thomas Girardi bankruptcy case without the Trustee's written consent.

f. **Production of Documents.** As soon as practicable, CAL II shall produce to the Trustee all documents in its possession, custody, or control relating to Abir Cohen Treyzon Salo, LLP and Boris Treyzon that are not subject to privilege because of CAL II's joint defense/common interest agreement with them. The Trustee reserves all rights regarding the asserted privilege and is not precluded from seeking an order from

1 the Bankruptcy Court for the production of documents that are not produced under the  
2 joint defense/common interest agreement.

3 4. The Settlement Agreement is in the best interest of the Estate because it  
4 avoids complex litigation where it is unclear whether the Trustee can prevail and also  
5 prevents further delay to the administration of the Estate. The Settlement Agreement  
6 also reduces CAL II's claim against the Estate by \$160,122.69 and includes measures  
7 that prevent CAL II's claim from unexpectedly increasing. Furthermore, funds disbursed  
8 to CAL II under the Settlement Agreement will be applied solely to CAL II's judgment  
9 principal, thereby preventing additional interest from accruing. Thus, the Settlement  
10 Agreement should be approved.

11 **PLEASE TAKE FURTHER NOTICE** that the Trustee is requesting that the Court  
12 grant the Motion without a hearing as provided in Local Bankruptcy Rule ("LBR") 9013-  
13 1(o) unless a party in interest timely files and serves a written opposition to the Motion  
14 and requests a hearing. A copy of the Motion is available from the Court, the Pacer  
15 docket, or by contacting counsel for the Trustee in the above caption.

16 **DEADLINE FOR FILING AND SERVING OPPOSITION PAPERS AND**  
17 **REQUEST FOR A HEARING:** Pursuant to LBR 9013-1(o), any party who opposes the  
18 Motion may request a hearing on the Motion. The deadline to file and serve a written  
19 opposition and request for hearing is 14 days after service of this notice, plus 3 additional  
20 days if you were served by mail or pursuant to Federal Rule of Civil Procedure 5(b)(2)(D)  
21 or (F).

22 If you timely file and serve a written opposition and request for a hearing, the  
23 Trustee will file and serve a notice of hearing at least 14 days in advance of the hearing.  
24 If you fail to comply with this deadline:

25 a. The Trustee will file a declaration to indicate (1) the Motion was properly  
26 served; (2) the response period elapsed, and (3) no party filed and served a written  
27 opposition and request for a hearing within 14 days after the date of service of this notice;

28 b. The Trustee will lodge an order that the Court may use to grant the Motion;  
and

c. The Court may treat your failure as a waiver of your right to oppose the  
Motion and may grant the Motion without further hearing and notice.

DATED: May 11, 2021

Respectfully submitted,

SMILEY WANG-EKVALL, LLP

By: /s/ Philip E. Strok

PHILIP E. STROK

Attorneys for Elissa D. Miller, Chapter 7  
Trustee

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## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 3200 Park Center Drive, Suite 250, Costa Mesa, CA 92626.

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION FOR ORDER APPROVING COMPROMISE WITH CALIFORNIA ATTORNEY LENDING II, INC. PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) May 11, 2021 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page.

**2. SERVED BY UNITED STATES MAIL:**

On (*date*) May 11, 2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The Honorable Barry Russell U.S. Bankruptcy Court Roybal Federal Building 255 E. Temple Street, Suite 1660 Los Angeles, CA 90012
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☒ Service information continued on attached page.

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

May 11, 2021

*Date*

Lynnette Garrett

*Printed Name*

/s/ Lynnette Garrett

*Signature*

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

**ADDITIONAL SERVICE INFORMATION (if needed):**

**1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")**

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